CHAPTER – VII

DEMAND FOR MORE AUTONOMY IN THE STATE OF JAMMU AND KASHIR – A CRITICAL ANALYSIS

1 INTRODUCTION

The State of Jammu and Kashmir has special status within the Indian Constitution. It is clear from the discussions in the preceding chapters that the State of Jammu and Kashmir possesses more state autonomy as compared to other States of Indian Union. Since the beginning of its relationship with the Indian Union, there has been a persistent demand for more autonomy by the State of Jammu and Kashmir. It is noteworthy that the State of Jammu and Kashmir has a unique identity owing to its composite culture and a distinct political and constitutional history. The preservation of its uniqueness has made the State of Jammu and Kashmir quite sensitive on the issue of autonomy. This is evident from the fact that it “is the only State in the Union of India which negotiated the terms of its membership with the Union.”1 Unlike other Princely States, the State of Jammu and Kashmir did not waive the option of forming its own Constituent Assembly to draft its Constitution. Unlike other Princely States, Jammu and Kashmir refused to surrender all its residual autonomy to the Indian Union and expressed its inability to accept all the terms of the Constitution of India. This led to the inclusion of Article 370 in the Constitution of India to safeguard its internal autonomy.

2 WHY DEMAND FOR MORE AUTONOMY

Despite this constitutional safeguard, there is a prevalent view that the autonomy of Jammu and Kashmir has been eroded since 1953.2 The dismissal and arrest of Sheikh Abdullah, the most potent advocate of the State’s autonomy, is considered to be the beginning of the erosion of the State autonomy of Jammu and Kashmir. The different

---

2 This view is held by many eminent thinkers on Jammu and Kashmir such as Balraj Puri, Rekha Chowdhary, Noor Ahmad Baba, Amitabh Mattoo, Asghar Ali, Engineer A.G. Noorani and many political outfits.
constitutional provisions, applicable to Jammu and Kashmir after 1953 are viewed as the erosion of the state autonomy. In addition to it, the puppet governments which were installed in the State, from time to time, with the active connivance of the Government of India also undermined autonomy of Jammu and Kashmir. This has given rise to a sense of betrayal and alienation among the residents of Jammu and Kashmir. In other words, there has been strong resistance to the different constitutional provisions extended post-1953 by the Union of India to the State of Jammu and Kashmir. The first voice of protest was raised by Mohammed Sheikh Abdullah in 1970s. After assuming the office of Chief Ministership in 1975, he appointed a committee to review the parliamentary laws extended to the State in the post-1953 period. The review concluded that all central laws and provisions of the Constitution of India extended to the State were properly applied. The following year another review gave opinion contrary to the former one. Neither of them was laid on the floor of the House. Sheikh Abdullah’s demand for autonomy was demand for pre-1953 status for the State of Jammu and Kashmir. In response to the clamour of autonomy, the then Prime Minister of India, Shrimati Indira Gandhi initiated talks with Sheikh Abdullah which concluded in the form of Kashmir Accord or the Beg-Parthasarthy Accord. The Accord has been discussed earlier in this thesis. In the Kashmir Accord, some concessions were given to the State of Jammu and Kashmir so as to widen its ambit of autonomy. It was successful to subdue the demand for more autonomy for a short period. The demand for autonomy became loud again in mid-1990s when Sheikh Abdullah’s son Dr. Farooq Abdullah fought elections of 1996 on the main plank of autonomy. Farooq Abdullah within one month of assuming his office of the Chief Minister set up a committee known as State Autonomy Committee (SAC) to “examine and recommend measures for the restoration of autonomy to the State of Jammu and Kashmir consistent with the Instrument of Accession, the Constitution (Application to Jammu & Kashmir) Order, 1950 and the Delhi agreement of 1952.” The SAC report was released in the year 1999.

3 THE STATE AUTONOMY COMMITTEE REPORT’s MAJOR RECOMMENDATIONS

The SAC report made the following major recommendations: 4

i) The word ‘Temporary’ be deleted from the title of Part XXI of the Constitution of India and the word ‘Temporary’ occurring in the heading of Article 370 be substituted by the word ‘Special’.

ii) Matters in the Union list not connected with the three subjects of Defence, External Affairs and Communications or Ancillary thereto but made applicable should be excluded from their application to the State.

iii) All modifications made in Article 246 in its application to the State subsequent to the 1950 order should be rescinded.

iv) Articles 248, 249, 250, 251, 262 and 263 should be omitted from their application to the State.

v) Article 254 should be restored to the position it had in its application to the State in 1954.

vi) Regarding emergency provisions, the report stated that Articles 355, 356, 357, 358, 359 and 360 should be made non-applicable to the State as was the position in 1954.

vii) The report recommended a separate Chapter on Fundamental Rights to be included in the State Constitution.

viii) Articles 72 (1)(c), 72(3), 133, 134, 135, 136, 138, 145(1)(c) and 151(2) should be made non-applicable to the State as was the position in 1950 Order. Articles 149, 150 and 151 should apply to the State in the form in which they were in 1954.

ix) Articles 218, 220, 222 and 226 should also be omitted in their application to Jammu and Kashmir State.

tax) With regard to financial matters, the report recommended that the matter be discussed between the State representatives and the Union Government as agreed to during the talks in 1952.

4 The Source of the recommendations is the original SAC report.
xi) In Article 312 the brackets and words “including the State of Jammu and Kashmir” inserted by the Constitution (Application to Jammu & Kashmir) Order, 1958 be omitted.

xii) The report also recommended omission of Articles 338, 339, 340, 341 and 342 and corresponding provisions should be made in the State Constitution. It also recommended clause (4) of Article 368 to be deleted.

xiii) Regarding the Schedules, the report recommended that in the Seventh Schedule entries in the Union List not applied to the State by the Constitution (Application to Jammu & Kashmir) Order, 1950 should be omitted. Concurrent List which was not applicable to the state in 1950 but was applied by subsequent orders should cease to apply to the state.

All amendments in the Constitution of Jammu and Kashmir made vide:-

i) Constitution of Jammu and Kashmir (First Amendment) Act, 1956 insofar as they relate to superintendence, direction and control of elections to the State Legislature and to the State High Court; and

ii) Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965 relating to change of nomenclature of the Head of the State and State Executive, mode of appointment of the Head of the State and other consequential amendments should be repealed and the original provisions of the Constitution of Jammu and Kashmir restored.

The recommendations of the SAC report clearly highlight National Conference’s demand for Pre-1953 status in the name of autonomy. The Jammu and Kashmir Assembly adopted a resolution accepting the SAC report and demanded that the Union and the State Government shall take positive and effective steps for implementing the report. The then Union Cabinet out-rightly rejected the Jammu and Kashmir’s resolution for autonomy.
3.1 **Weaknesses of the State Autonomy Committee Report**

The main reason for the outright rejection of the SAC report was its lack of representative character. It did not represent the regional aspirations on the issue of autonomy. Prof. Rekha Chowdhary rightly remarks:

> The failure of National Conference to incorporate the issue of internal autonomy in its discourse on state autonomy impacted the political response of the Jammu region…. This was read as indifference towards the political aspirations of the people of Jammu (and Ladakh).⁵

Thus, it can be said that another important dimension of the issue of autonomy in the State of Jammu and Kashmir is regional autonomy. A sense of economic and political discrimination prevalent among the inhabitants of Jammu and Ladakh in relation to Kashmir Valley is responsible for the demand for regional autonomy. Balraj Puri rightly remarks:

> Until Jammu, Kashmir and Ladakh draw closer, settle their differences and agree to operate as equal partners, there will never be a stable basis upon which relations with rest of India can be satisfactorily settled.⁶

### 4 THE ISSUE OF REGIONAL AUTONOMY IN THE STATE OF JAMMU AND KASHMIR

There have been several regional agitations in Jammu and Kashmir dating back to the early 1950s to voice the demand for regional autonomy. In 1952, a major agitation was launched by the Praja Parishad, an RSS-supported regional party in the Jammu region. The main demand of this agitation (with the slogan ‘ek vidhan, ek pradhan, ek nishan’ or ‘one constitution, one president and one symbol’) was the complete constitutional integration of the State of Jammu and Kashmir with India.

---


Jammu Autonomy Forum since mid-1960s has campaigned for regional autonomy under the leadership of Balraj Puri. To address the demand for regional autonomy, the State Government in the past set-up five Commissions. These are:

1. The Glancy Commission (1931)
2. The Gajendragadkar Commission (1967)
3. The Qadri Commission (1972)
4. The Sikri Commission (1976)

While the Commissions appointed in 1972 and 1981 examined demand for carving more districts in Jammu, the other two commissions recommended measures which could rectify the regional imbalances and harmonise inter-regional relations. The Gajendragadkar Commission in its report recognised the widely held feeling of regional discrimination in the two regions of the State by stating:

> In fact, we consider that the main cause of irritation and tension is the feeling of political neglect and discrimination, real or imaginary, from which certain regions of the State suffer. 7

One can say that the demand for regional autonomy in the State of Jammu and Kashmir is the demand for internal devolution of power in the State and for equal political participation of different regions in the integrated development of the State. During the 1996 Assembly elections, the demand acquired such strong public support that all political parties across ideological lines were forced to incorporate it in their electoral manifestos. Finally when the National Conference came into power, it appointed Regional Autonomy Committee (RAC) on November 13, 1996 which submitted its report in April, 1999.

---

4.1 The Major Recommendations of the RAC Report

The Regional Autonomy Committee made twenty-four pages report which was endorsed by the State Cabinet in January, 2000. Following are the major recommendations of the report: 8

i) In view of historical, social, ethnic and development factors, the Committee recommended that the existing two Provinces/Divisions of Jammu and Kashmir should be classified into eight new regions/provinces as:
   1. Kamraz (Baramulla and Kupwara Districts)
   2. Nundabad (Budgam and Srinagar Districts)
   3. Maraz (Anantnag and Pulwana Districts)
   4. Chenab Valley (Doda District and Tehsil Mahore)
   5. Jammu (Jammu, Kathua and Udhampur)
   6. Pir Panchal (Poonch and Rajouri Districts)
   7. Ladakh (Leh District)
   8. Kargil (Kargil District)

ii) The Committee recommended to establish Regional/Provincial Councils in the State to meet the requirement of devolution of power to different regions as per the Committee’s classification. The Regional/Provincial Councils should be elected in the same manner in which the State legislature is elected. There should be reservation of 25% seats for women in the Council. The leader of the majority party so elected in the Region/Province shall head the Regional/Provincial Council and be designated as Chief Executive Councilor. The financial powers of the Councils would be limited to the subjects allocated to the Council.

iii) The committee recommended that the government may consider setting up District Councils as an alternative to the Regional/Provincial Councils. The District Councils may be established in the existing districts of the entire Jammu and Kashmir State.

8 The Regional Autonomy Committee Report (Excerpts)
iv) The committee recommended that government may constitute an Expert Committee and seek its opinion on the proposed models before taking a final decision in this behalf.

v) The committee recommended constituting a Finance Commission for the Jammu and Kashmir State to recommend the methods and mechanisms of raising and dividing funds to different organs.

vi) The Committee recommended necessary changes in the Constitution of Jammu and Kashmir in order to implement the recommendations made in the report.

4.2 Various Responses to the RAC Report

The RAC report has generally received a negative response from the different quarters. The most objectionable part of the report is its division of the State of Jammu and Kashmir on communal lines. One response to the report is that:

The aim, it appears, is to de-centre the existing demand for regional autonomy and to counter it through the mode of suggesting division of the regions.9

There are some who believe that trifurcation of Jammu and Kashmir as recommended in RAC report would empower Jammuites and Ladakhis who have been struggling against discrimination since decades.

5 JUSTICE SAGHIR AHMAD’S REPORT, 2009

Another important report on the issue of autonomy in Jammu and Kashmir was released in 2009 known as Justice Saghir Ahmad report which has already been discussed in chapter 1 of this thesis.

6 GROUP OF INTERLOCUTOR’S REPORT, 2012

On October 13, 2010, the Ministry of Home Affairs, Government of India appointed a group of interlocutors on Jammu and Kashmir. It consisted of noted

journalist Dileep Padgaonkar, academician Radha Kumar and former Information Commissioner M.M. Ansari. The group submitted its report titled “A new compact with the people of Jammu and Kashmir” on Oct 12, 2011 which was made public on May 24th, 2012. The group after its interaction with more than 700 hundred delegations held in all the twenty-two districts of Jammu and Kashmir and the three round table conferences made the following recommendations:10

1. A Constitutional Committee (CC) should be set up to review all Central Acts and Articles of the Constitution of India extended to the State after the signing of 1952 Agreement. It should include, as its members, constitutional experts who enjoy the confidence of all major stake-holders. Its conclusion, to be reached within six months, will binding on all of them.

2. The recommendations of the Interlocutors report on certain issues of contention are as follows:

   a) Delete the work ‘temporary’ from the headings of Article 370 and from the title of Part XXI of the Constitution. Replace it with the word ‘Special’.

   b) In relation to the appointment of Governor in the State of Jammu and Kashmir, the State Government, after consultations with opposition parties, shall submit a list of three names to the President. The Governor will be appointed by the President and hold office at the pleasure of the President.

   c) In relation to Article 356, the report supports the present arrangement to continue with the proviso that the Governor will keep the State Legislature under suspended animation and hold fresh election within three months.

   d) The proportion of officers from All India Services should be gradually reduced in favour of officers from the State Civil Service without curbing administrative efficiency.

   e) Three regional councils should be created for Jammu, Kashmir and Ladakh with certain legislative, executive and financial powers. There should be devolution of executive and financial powers to panchayti raj institution at

---

all levels on the lines of the 73rd and 74th amendment of the Constitution of India.

f) Parliament will make no laws applicable to State unless it relates to the country’s internal and external security and its vital economic interest.

g) The interlocutors also recommended the transfers of subjects out of the List II and List III of the Seventh Schedule to Regional Councils.

h) The report recommended many cultural, social and economic Confidence Building Measures. A few important ones are:

   a) Initiating of an inter Kashmir and intra Kashmir dialogue and exchange programmes.

   b) Creations Special Economic Zone (SEZ’s) for the promotion of industry.

   c) Declaration of hilly, remote and backward areas as Special Developments Zones.

   d) Speeding up human rights and rule of law reforms.

   Thus, the interlocutors report suggested a wide range of measures to restore the eroded autonomy in the State of Jammu and Kashmir. It clearly mentioned:

   The Group of Interlocutors does not recommend a pure and simple return to the pre-1953 situation. This would create a dangerous constitutional vacuum in the Center-State relationship. The clock cannot be set back.\textsuperscript{11}

7 OTHER PROPOSALS OF THE SOLUTION OF THE DEMAND OF AUTONOMY

Apart from the recommendations of the above-discussed reports to resolve the issue of autonomy in Jammu and Kashmir, there are some other proposals that have been presented as solutions to the issue of autonomy in Jammu and Kashmir. The important ones are.

\textsuperscript{11} Id. at 58.
7.1 **Peoples Democratic Party’s Self Rule**

The Peoples Democratic Party has offered a working paper on Jammu and Kashmir known as self rule booklet to resolve the issue of autonomy in States. It defines self rule as “a trans-border concept that has a pan-Kashmir dimension but at that same time seeks to regionalize power across Jammu and Kashmir.”\(^{12}\) The Self-rule has three key elements - a new political superstructure known as the Regional Councils of Greater Jammu and Kashmir that has representatives from Pakistan Occupied Kashmir (POK), the economic integration across the line of control that includes establishment of common economic space, instituting a dual currency system and adequate constitutional safeguards which include repealing of Article 356, Article 249, the sixth amendment of Constitution of the State, Article 312 and the proviso added to the Article 368.

7.2 **Trifurcation**

The heterogeneous character of three regions i.e. Jammu, Kashmir and Ladakh and the neglect of Jammu and Ladakh in the political decision-making process have resulted in the demand of trifurcation of the State of Jammu and Kashmir. In 1964 the Ladakh Buddhist Association (LBA) spear-headed a movement against Kashmiri domination in the region. After their protracted agitation, they however agreed to the formation of Ladakh Autonomous Hill Development Council (LAHDC) in 1995. The LAHDC passed a resolution seeking Union Territory status for Ladakh. Similarly, the Jammu region has demanded separate statehood for itself. In Jammu, Jammu Mukti Morcha (JMM) was formed with its sole aim and objective of trifurcation of State. The Praja Prishad has agitated for abrogation of Article 370 and complete integration of Jammu and Kashmir with the Indian Union.

8 **CONCLUSION**

The demand for more autonomy in the State of Jammu and Kashmir is a multi-voiced demand. Within the demand of state autonomy one can listen to the demand for regional autonomy and within the demand for regional autonomy one can listen to the

\(^{12}\) See, *Self rule framework.*
demand for sub-regional autonomy. Only a multi-dimensional strategy can fulfil such
demand for autonomy. An attempt to define the nature and scope of a multi-dimensional
approach has been made in the concluding chapter of the thesis.

*****